

EXHIBIT J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
HUZHOU CHUANGTAI RONGYUAN : Docket #1:21-cv-09221-
INVESTMENT MANAGEMENT PARTNERSHIP, : KPF
et al., :
Plaintiffs, :
- against - :
QIN, : New York, New York
Respondent. : November 18, 2022
----- : REMOTE MOTION HEARING

PROCEEDINGS BEFORE
THE HONORABLE KATHERINE POLK FAILLA,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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None

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THE CLERK: Your Honor, this is in the matter of Huzhou Chuangtai Rongyuan Investment Management Partnership et al v. Qin.

Counsel, please state your name for the record, beginning with plaintiffs.

MR. ANDREW C. SMITH: Good morning, your Honor. This is Andrew Smith with Pillsbury Winthrop Shaw Pittman, appearing on behalf of the petitioners, judgment creditors.

HONORABLE KATHERINE POLK FAILLA (THE COURT): Sir, thank you very much, and welcome to you. Thank you.

And from the Seiden law firm, may I have the appearance, please?

MR. AMIAD MOSHE KUSHNER: Good morning, your Honor. My name is Amiad Kushner from Seiden Law Group, appearing for the respondent.

THE COURT: Sir, welcome, and thank you very much.

And then is it Mr. Xue?

MR. BENJAMIN B. XUE: Good morning, your Honor. This is Benjamin Xue from Xue & Associates, P.C.

THE COURT: Good morning. And thank you, all, very much.

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2 This is a motion hearing on a motion to
3 withdraw as counsel. I've received Mr. Xue's first
4 motion to withdraw, the petitioner's opposition, and the
5 Xue reply.

6 Mr. Xue, just because I have read all of your
7 written things and I have not heard from Mr. Kushner,
8 I'm going to actually speak with him first.

9 Mr. Kushner, may I have a sense, please, was
10 there a division of labor between you and Mr. Xue's
11 firm, or what is the understanding that you believe each
12 firm has with respect to work going forward on this
13 case?

14 MR. KUSHNER: Thank you, your Honor. Seiden
15 Law Group is currently engaged to handle all matters
16 going forward. That includes all matters related to
17 responding to petitioners' discovery demands in aid of
18 the judgment. It also includes Mr. Qin's efforts to
19 have the judgment vacated.

20 I will say, your Honor, that the scope of our
21 work changed over time. When we initially appeared in
22 the case in May of this year, Mr. Xue's firm had been
23 handling the matter entirely. In fact, his firm had
24 submitted all of the papers on the summary judgment
25 motion. And at some point after the Court issued the

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judgment, the client made a decision to transition everything to our firm, which led to Mr. Xue's motion to withdraw.

So, in short, from this point forward, assuming your Honor grants Mr. Xue's motion to withdraw, the Seiden firm will be handling everything for Mr. Qin in this case going forward.

THE COURT: I think what confused me, Mr. Kushner, is that I understood from the Pillsbury letter that Mr. Xue's motion was filed on the day that the responses were due. That suggested to me that responses were not in fact filed. Were they filed by your firm, sir?

MR. KUSHNER: Yes. So your Honor had issued an order requiring that responses to the document demand be served by November 9th. So the Seiden Law Group prepared those responses and served them on the petitioners on November 9th.

THE COURT: All right, Mr. Kushner, do I understand that you and your firm have all of the relevant documents in this case, either in original or copy form, and that you're not relying or you don't need Mr. Xue to provide these documents to you to have a complete set?

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MR. KUSHNER: Yes. The Xue firm has turned over its client file to Seiden Law Group. So, yes, we are prepared to handle the matter going forward, and there are no -- as far as we know, there are no documents that the Xue firm has that our firm doesn't have.

THE COURT: Okay. Mr. Xue, I appreciate your patience, sir. And I asked to speak to Mr. Kushner first because I don't believe I had anything from him in writing. Do you wish to supplement anything that he has just told me?

MR. XUE: No, your Honor. I was personally informed by Mr. Qin soon after the decision come down he was going to have Seiden law firm handling the matter going forward. And at that time because it's unclear what Seiden law firm is going to undertake, so I stay on a little bit, and he made -- both Mr. Qin and Seiden law firm make it clear to me, especially after the motion was assisted -- the motion was filed without really -- we saw it at the same time the Court receive it. So we realized that we should not stay on the case just to put our name there, doing nothing. So that's why I filed the motion to withdraw on that day, has -- really have nothing to do with discovery.

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THE COURT: Okay. Mr. Smith, you had originally opposed the motion, but I now have a greater sense of how at least Mr. Qin believes he's going to be represented going forward. May I hear from you, please, as to whether you still object?

MR. SMITH: Certainly. Thank you, your Honor.

Yes, we do still object because this is not a usual case. In fact, it actually is worth taking a moment to review a couple of facts in this case. And with respect to our opposition to the motion to withdraw, it is, as you I'm sure understood from our opposition, related to the Xue firm's prior representation of Mr. Qin in the Gold Team matter. And over the course of two years that they represented -- well, they represented Mr. Qin's wife and an entity that we now know through the opposition that -- sorry, the reply that we received from Mr. Xue's firm -- that they are in fact very well aware of the entities that Mr. Qin is involved in, as well as his wife, and also his mother-in-law.

The concern that we have is not that Mr. Kushner's firm is not going to turn over any documents that he has in his possession or that Mr. Qin will provide to him; our concern is that Xue firm has

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2 information that it has gathered through this two-year
3 representation of Mr. Qin's wife and related entities
4 that Mr. Qin will not provide to the Seiden Law Group
5 and therefore we will have no insight as to whether or
6 not Mr. Qin is making a fulsome production with respect
7 to where his assets are, what entities he's involved in,
8 what entities his wife and his mother-in-law are
9 involved in.

10 And I'd also note that Mr. Kushner mentioned
11 that in response to your question -- and maybe it was
12 the way that your question was phrased -- but my
13 understanding of his response was that he's currently in
14 possession of all the documents responsive to our post-
15 judgment discovery requests. To date we have received
16 not a single document, let alone anything that the Xue
17 firm may have provided to the Kushner law group.

18 But also, it's not clear whether or not any of
19 the documents relating to the Gold Team matter have been
20 provided. And we're concerned that there will be a
21 determination of relevance with respect to what Qin
22 provides, Mr. Qin provides to the Kushner law group that
23 would exclude information that the Xue firm may be in
24 possession of. And, to be clear, we are not questioning
25 whether the Xue firm would abide by its ethical

1 obligations.

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3 In fact, that's one of the reasons why we want
4 to keep them in this action, at least with respect to
5 post-judgment discovery, because we view that as an
6 additional safeguard in terms of getting fulsome
7 discovery from Mr. Qin, who has through various
8 proceedings demonstrated that he's less than forthright
9 in terms of disclosing where his assets are, even where
10 he is. I mean, we now are a couple of years into this;
11 and after hundreds of pages of service, even the most
12 recent motion for reconsideration, we still have not
13 from any counsel had any identification of where Mr. Qin
14 resides. And, in fact, when we were attempting to serve
15 Mr. Qin with this action back in December of 2021, your
16 Honor ordered that we could effect service through mail,
17 regular mail or email. So we attempted to serve his
18 counsel that represented him in the underlying
19 arbitration in China. That counsel responded that they
20 did not represent him. But in response to a direct
21 request in terms of simply getting an address or some
22 type of contact information in order to serve Qin, that
23 lawyer refused to do so.

24 So where we are now is we have received not
25 documents to date; obviously, not a single dollar has

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been paid in terms of satisfying this judgment; we have no information with respect to bank accounts, no assets. And the point that Mr. Xue makes in his reply to our opposition with regard to him not representing Mr. Qin but rather representing Mr. Qin's wife or ex-wife, that is insufficient because he cannot deny, does not deny in his reply that he worked with Mr. Qin to put in a sworn declaration in that. But also, we have discovered evidence that Mr. Qin's ex-wife is someone that he has been transferring assets to, number one; and, number two, has demonstrated likewise less than being forthright, in fact being overtly duplicitous in the sense that when we attempted to serve at a couple of locations, she sent us responses saying that Mr. Qin did not reside there. And the only way we ended up effectuating service was through investigators who surveyed one of the addresses that she said he did not reside at and then followed him in his car as he left that residence and eventually served him by hand.

So I say this all, your Honor, by way of background that this is not a usual motion to withdraw as counsel because the facts here are different than your typical case. And as Judge Nathan pointed out in the recent 2021 Southern District decision that we cited

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2 in our opposition -- this is the *Worms v. State*
3 *Corporation* -- "Even if a client steadfastly refused to
4 pay the fees, however, a Court need not allow withdrawal
5 on that basis when it would delay or disrupt the
6 proceedings," And then, in fact proceeded to deny a
7 motion to withdraw in that case because it determined
8 that his withdrawal at this juncture would plainly be
9 disruptive. We believe that it would be disruptive to
10 allow the Xue firm to withdraw at this time.

11 And with respect to who is doing what work for
12 Mr. Qin, we, just to be clear, we certainly are not
13 trying to dictate what legal work should be done as
14 between Mr. Kushner's firm and Mr. Xue's firm with
15 respect to the efforts to vacate. In fact, we have no
16 interest in seeing how that is done, and we certainly
17 are not attempting to impede a client's ability to
18 direct strategy and to hire a counsel that he wants to
19 for this.

20 But with respect to just the limited aspect of
21 post-judgment discovery, that is where our opposition to
22 the Xue firm's withdrawal lies.

23 THE COURT: But, Mr. Smith, what you're
24 suggesting to me is that Mr. Xue needs to stay on this
25 case because you don't trust Mr. Kushner's firm's

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ability to figure out what the universe of responsive materials is that is in the possession of their client or their client's former counsel and to then have that universe of materials ready to either produce in discovery or to object to the production. I mean, you're basically -- and I'm using this term very loosely -- I want to be very careful as I say this, but you're basically holding Mr. Xue hostage as counsel because you believe that Mr. Qin is so likely to lie and to not respond to your requests, that you want to keep him on board so that you have two attorneys making (indiscernible) certifications and not one. Am I putting too fine a point on this, sir?

MR. SMITH: Actually, no, except I wanted to go back because I had thought where you were going was implying that -- or not implying but asking whether we are concerned about whether Mr. Kushner's firm will abide by his ethical duties. Absolutely not. And in fact, we're not questioning whether Mr. Xue and his firm would do so, as well. In fact, we want to keep him in the action precisely because we know that he is bound by his ethical duties. But to answer the ultimate question whether we have concerns about Mr. Qin providing all the information that is responsive to our post-judgment

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2 discovery and allowing us to locate the assets,
3 absolutely; that is our concern, and we believe that
4 there is sufficient evidence in the record of Mr. Xue
5 taking proactive steps to hide his whereabouts and to
6 hide has assets through various --

7 THE COURT: You mean -- I think you mean
8 Mr. Qin. Mr. Xue is the attorney for --

9 MR. SMITH: Sorry. Yes, Mr. Qin. I absolutely
10 misspoke there.

11 THE COURT: But, again, my point remains you've
12 now outlined for me, you've placed on my radar screen,
13 and by extension on Mr. Kushner and his firm's radar
14 screen, your very serious belief that Mr. Qin is going
15 to not only hide his assets but also hide from his
16 attorneys the documents and the information that they
17 need in order to comply with their duties. Having put
18 the Seiden law firm on notice that you think their
19 client isn't telling them everything, I would think Mr.
20 Kushner is now -- and his firm, if they didn't do it
21 beforehand, they're now going to make sure that their
22 client is telling them everything. And I'm not sure why
23 you believe Mr. Xue could not give to Mr. Kushner all of
24 the information he has obtained in the two years he has
25 been representing Mr. Qin. But tell me.

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MR. SMITH: Yes. And thank you because you really are, as you said, putting a fine point on it and exactly identifying our concern. I have no doubt in Mr. Kushner's ability to ask the right questions and to zealously, you know, not only represent his clients but also his ethical obligations to the Court. What I do have a doubt about is whether or not that will nonetheless, despite the efforts, elicit the fulsome responses from Mr. Qin.

Mr. Xue in his representation of Mr. Qin's ex-wife and also the investigation into the assets, he has information. He has essentially educated himself with respect to these different entities' location, how they work, what the ownership structure is. And, therefore, he wouldn't be -- at this point, he already has what he has, so he wouldn't be relying on Mr. Qin again to produce that. And want to make sure that we have access to that.

And just by way of example, your Honor, footnote one to the reply that Mr. Xue put in, he describes without any cite to any documents how a transaction worked, the dates -- it was owned by a BVI company associated with Mr. Qin. He transferred his interest in 2018. Then after that, the property was

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transferred in 2020 from the BVI company to Mr. Qin's wife at that time. I mean, these are all details that - and then -- but elsewhere in the letter he says, But I don't have any documents that were produced in this case. So this would be information that he would know that there would exist information and documents relating to this type of transaction by his apparent representation he hasn't handed over to the Kushner law firm because the documents aren't there, but he has knowledge of these transactions and knows that there are documents that exist that relate to these type of things. That is just by way of example, your Honor.

So to try to more simply answer your question, it's not merely a handing over of documents. Mr. Xue has already been educated with respect to the location of potential post-judgment assets available to satisfy our judgment, that there's no reason to believe that the Kushner law firm would otherwise have gained outside of what Mr. Qin would offer voluntarily.

THE COURT: Okay. Mr. Xue, I'm going to turn to you. And I want to begin by asking you again to pronounce your surname, sir, because I've heard it pronounced three different ways in this call. Let me hear it again, please, sir.

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MR. XUE: It's "sher" in Chinese; it's like s-h-e-r. But I go by "zoo," because it's easier for Americans to --

THE COURT: Well --

MR. XUE: But thank you, your Honor.

THE COURT: No, no, but I think we're all trying to be -- I listened to you, but perhaps I should go with the way you would prefer, which is "sher." So, Mr. Xue, let me please understand, you've just heard Mr. Smith pay you the highest of compliments in that you have a gone of information that you've learned in the last two years that he's afraid is not going to make its way to Mr. Kushner. How can I be confident, sir, that to the extent that there is information that you have that is properly disclosable in post-judgment discovery, that it makes its way to Mr. Kushner's firm?

MR. XUE: Yes, your Honor, first, I don't know how an Mr. Smith make these kinds of representations to Court when the whole case file is available to him. The Gold Team litigation was presented in Nassau County. The case did not even get into discovery stage. The plaintiff, Gold Team, filed an action in Nassau County saying there is a violation of BVI order, so sued Mr. Qin's ex-wife and her mother and the corporate

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2 entity owned by Mr. Qin's mother. The corporate entity
3 was transferred to Mr. Qin's mother back in 2018, two
4 years before ending up what's happening before this
5 Court in arbitration proceeding, so really have nothing
6 to do with arbitration proceeding whatsoever. The case
7 did not get into discovery stage. I said it very
8 clearly in my reply. And the counsel can verify that.
9 It's an e-file case. All right? And they file
10 complaint, I file a motion to dismiss because I believe
11 that the property is not subject to notice of pendency
12 because property does not belong to Mr. Qin. Mr. Qin
13 was -- the corporation was never the debtor. And then
14 Mr. Qin in that time have nothing to do with the
15 corporation. So that's why I file a motion to dismiss.
16 They somehow feel like, oh, that was discovery. They
17 could just check the e-filing was ever discovery. And I
18 litigate with I think it's Becher law firm or something.

19 They are very professional; nobody make
20 misconduct accusation at Pillsbury's firm. We're very
21 friendly. We litigate -- we don't make accusation
22 against each other. All right? So there is no
23 discovery. I don't know how can Mr. Smith in his
24 opposition make representation to Court. I have
25 Mr. Qin's bank statement, I have Mr. Qin's asset

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documents. I don't know where his basis come from. As attorney, they are bounded by ethics code; they cannot make false representation to the Court. Especially they cannot speculate, can't make this kind of speculation, almost like slander another attorney's reputation here. And then, if I have any documents, my document will not come from me, will come from my client. They can easily get it from Mr. Qin as a third party, right, if they want to subpoena Mr. Qin's ex-wife, ex-wife's mother, he can do that. Right. Why --

THE COURT: Mr. Xue, just pause for a moment, please. Sir, a concern that I have that has come up in other cases is that individuals have given originals of their documents to their attorneys, and then succeeding attorneys just don't have them. Are you saying, sir, that anything that you have been given has been given to you in copy form or that you can otherwise confirm that everything you got has gone to Mr. Kushner's law firm?

MR. XUE: Your Honor, in terms of this case, everything I got go to Kushner's firm. The Gold Team case, it's not really related in this case, so if Kushner's firm need it, I turn over entire file to him. But the thing is I need consent from the client I represented. But there is no discovery; I can make

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representation to Court there was no discovery in the Gold Team litigation.

THE COURT: Okay, so Mr. Xue, just so that I'm comfortable with what you're saying, what you're saying is you believe that everything that's properly discoverable in this case is with Mr. Kushner's firm, you may have some other materials. But if I were to find at some later date that those other materials were in fact relevant, you have them preserved, you're not going to destroy them, and you're going to turn them over to the Kushner firm promptly, correct, sir?

MR. XUE: A hundred percent, your Honor. I can make this kind of representation. And, your Honor, it's my firm's practice we never keep clients' (indiscernible), never, because we just don't want to be responsible. And, actually, my firm has already transferred to cloud service; we use DropBox for the past probably at least 6, 7, 8 years. So we don't have paper file nowadays, yes, because everything is cloud --

THE COURT: No paper files, ah. How very modern of you, sir.

All right, Mr. Xue, before I turn to Mr. Kushner to get his thoughts on Mr. Smith's arguments, I want to make sure I've heard from you fully. Have I,

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sir?

Mr. Xue, let me ask the question again, please.
Sir, I'm about to ask Mr. Kushner for his thoughts.
Mr. Xue, do you have anything else you want me to know
in response to Mr. Smith's arguments to me?

MR. XUE: Just give me one second. I --

THE COURT: Of course, sir.

MR. XUE: -- think you make -- your Honor, I
believe he also mentioned something like because Mr. Qin
may not be forthcoming, so he want to keep me hostage in
the case. You know, this is not (indiscernible) now.
The case law he cited is not applicable in this case.
In that case, there was no other attorney representing
the party whose attorney seeking to withdraw. In this
case, there is attorney who is -- full represent to
call; they are responsible for everything from this
point going forward. So there is no prejudice to
plaintiff in this -- petitioner in this case.

THE COURT: Sir, thank you.

Mr. Kushner, please allay my concerns that you
don't have all the documents and that without meaning to
violate your professional responsibility, you're going
to produce something less than you should.

MR. KUSHNER: Absolutely I can assure you of

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that. And if I may just respond to some of the points that petitioners' counsel made. You know, preliminarily, your Honor, this is a motion by the Xue firm to withdraw as counsel; it's not a motion to compel discovery, it's not a final hearing on a potential fraudulent transfer action. You know, let's be clear about what this motion is --

THE COURT: I am, sir.

MR. KUSHNER: And I think petitioners' counsel seems to be making arguments that really are far outside the scope of the types of -- you know, it's relevant for this motion. In every single case in which there is a transition of counsel, the outgoing counsel has information or knowledge of the facts, knowledge of the documents that the incoming counsel may not have or takes time to kind of get up to speed on.

So the notion that because the Xue firm has more of an intimate familiarity with some of the background facts and documents isn't relevant. The clients are entitled to their choice of counsel. What is relevant is whether Seiden Law Group can appear in the case and can handle the matter going forward. We've said on the record, and Mr. Xue has confirmed, that the Xue firm has provided its client file to Seiden Law

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Group. Mr. Xue has represented that he's not holding any responsive documents related to this matter at his firm, that he's given us everything. That should end the matter.

And I would point out, your Honor, something that petitioners' counsel left out of his presentation, is that he's already subpoenaed the Xue firm for documents, and he's subpoenaed Seiden Law Group, as well. You know, the idea that somehow he needs to keep Mr. Xue in the case to be able to get documents from Mr. Xue's firm is not correct. You know, he has avenues to get those documents. He doesn't have to hold him hostage, as your Honor pointed out.

Petitioners' counsel, I believe in his presentation, cited that Seiden Law Group has all responsive documents. I just want to make sure the record is clear I did not say that. What I said is that as far as Seiden Law Group knows, we have all responsive documents that the Xue firm had, that they provided us with whatever they had. I don't believe Seiden Law Group has all responsive documents, but we are working with Mr. Xue to collect responsive documents.

Your Honor, I don't know that it's necessary for me to respond to any of petitioners' counsel's other

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assertions regarding, for example, service in the Southern District in this case. I'm happy to, if you'd like. I don't know that I need to, though.

THE COURT: No, no, that's fine. Thank you, all, very much. I appreciate the arguments, but I don't believe that the arguments that Mr. Smith is raising are arguments why I need to keep Mr. Xue in the case. So I am going to grant the motion to withdraw. Mr. Xue knows and Mr. Kushner knows that there are obligations and that each of them has a professional responsibility with respect to the discharge of those obligations as it relates to materials they received from their clients that may or may not be responsive to discovery requests in this case. I also have obtained from Mr. Xue an understanding that if it turns out that he has additional files that are responsive and that I believe need to be turned over, he will turn them over. But I don't think it is appropriate for me to keep him on the case on the possibility, even if that possibility is more than a one percent chance that Mr. Qin will not produce everything. Mr. Kushner is on notice that Mr. Smith believes that Mr. Qin is hiding assets and is transferring them to people, and we'll figure out whether that in fact is the case. I don't think it

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means that Mr. Kushner can't represent -- and his firm can't represent Mr. Qin going forward, and I don't think it means that Mr. Xue has to stay on as sort of backup counsel. So I am granting the motion to withdraw. I know that there remains an open motion for reconsideration. You'll get that in due course.

I think those are all the issues I should be addressing today; so unless someone else has something to raise, I will let you all go with my thanks and my best wishes for a Happy Thanksgiving.

Anything else, gentlemen?

THE COURT: All right, I'm seeing heads being shaken and a few no's being said. I thank you all. Be well. And we'll talk when it's appropriate to do so in the future.

Thank you.

(Whereupon, the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of Huzhou Chuangtai Rongyuan Investment Management Partnership et al v. Qin, Docket #21-cv-09221-KPF, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: December 5, 2022